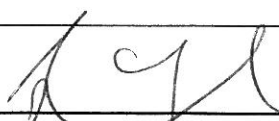


**TOWN OF ELSMERE**  
**APPEAL TO THE BOARD OF ADJUSTMENT**

Any person directly affected by a decision of the Code Enforcement Official or a notice or order issued under this Code shall have the right to appeal to the Board of Adjustment of the Town of Elsmere, provided that a written application for appeal is based on a claim that the true intent of this code or the rules legally adopted there under has been incorrectly interpreted or the provisions of this code do not fully apply. Additionally, an application for appeal may be based on a claim that an action other than what is required by the Code: 1) provides the same or better protections than what the Code requires and 2) will not cost the Town of Elsmere any more money than enforcing the code as written. If the appellant proves that an action other than what is required by the code meets these two requirements, the Board of Adjustment may, in its discretion, either enforce the Code as written or permit the proposed alternative action.	
Date this Appeal was filed: July 19, 2012 letter sent pre	Petition Number: 12-26
Date of the Original Action: July 7, 2012	Tax Parcel Number: 19-00400-693
Subject Property Address: 806/ Kirkwood Highway, Wilmington, DE 19805	
Property Owner's Name: John Lengyel	Phone Number: 302-633-1122
Property Owners Address: 1021 White Birch Drive, Newark DE 19713	
Applicant's Name: John Lengyel	
Applicant's Address: Same as above	
Specific Item Being Appealed: (ex: Citation Number, Petition Number, Order Number, Etc.) Citation number V3-00005.	
Reason for the Appeal: I am looking to appeal these citations. Per my conversation with Mr. Daniel Reed, I had mentioned at the time of the citation my groundskeeper was on vacation and was unable to take care of the grass. The property on 806 Kirkwood Highway near the bus stop bench is damaged as a result of a car accident from earlier this summer. I am waiting for insurance companies to approve work and repair on the area. In addition, because both properties are ours, I would like to reduce the fine from both properties to one.	
Relief sought: A reduced fine.	
Applicant's Signature: 	Date: July 19, 2012





## European Performance

806 Kirkwood Highway  
Wilmington, DE 19805  
(302) 633-1122

July 12, 2012


To Whom It May Concern,

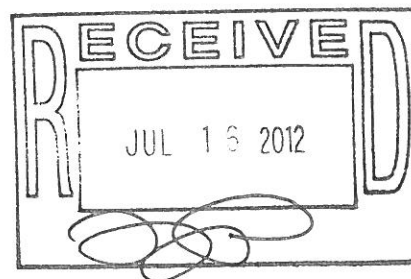
This letter is in regards to the citations I received on July 7, 2012 for locations 806 and 812 Kirkwood Highway for high weed/grass. I am looking to appeal these citations. Per my conversation with Mr. Daniel Reed, I had mentioned at the time of the citation my groundskeeper was on vacation and was unable to take care of the grass.

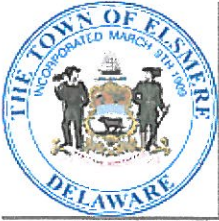
The property on 806 Kirkwood Highway near the bus stop bench is damaged as a result of a car accident from earlier this summer. I am waiting for insurance companies to approve work and repair on the area. In addition, because both properties are ours, I would like to reduce the fine from both properties to one.

I would appreciate your consideration in this matter and am happy to be a part of the Elsmere community.

Thank you,

  
John Lengyel  
Owner





# THE TOWN OF ELSMERE CODE ENFORCEMENT DEPARTMENT

\*\*\*\*\*CITATION\*\*\*\*\*

EXHIBIT

tabbles

12-26 B

11 Poplar Avenue - Elsmere, DE 19805 Phone: 302-998-2215 Fax: 302-998-9920

RESPONSIBLE PARTY	CITATION #	V3-00005
LENGYEL JOHN & LAURA 806 KIRKWOOD HWY WILMINGTON, DE 19805	OFFICER	DANIEL REED
	VIOLATION DATE	07/07/12
	PROPERTY ADDRESS	806 KIRKWOOD HY
	ABATEMENT DATE	07/16/12

On the above date, the Code Enforcement Department performed an inspection of the above referenced property. During this inspection, a violation of the Town of Elsmere Code was discovered. The nature of this civil citation is described below.

Specific Violation	Code Section	Due No Later Than	Amount Due
HIGH WEEDS AT CORNER OF PROPERTY, NEAR BUS STOP BENCH.	PM302-4 HIGH GRASS/WEEDS	(30 days from Violation Date)	\$ 50.00

\*\*\*\*\*CITATION INFORMATION\*\*\*\*\*

In order to process your payment, please write the property address in violation in the memo section of the check or money order, and then mail it with the voucher below.

You may also pay your fee in person at Town Hall, 11 Poplar Ave., Elsmere, DE 19805.

**ABATEMENT COST**

If the violation noted above is not corrected by 4:00 pm. on the "ABATEMENT DATE" listed above, the Town will take action to abate the violation. If this becomes necessary in addition to the \$50.00 fine already assessed you will owe to the Town the costs of the abatement.

Should you have any questions please contact the Code Enforcement Department at (302) 998-2215.

The "Amount Due" associated with this violation is a civil penalty and is due by no later than the "Due No Later Than". Additionally if the violation is not abated by the "Abatement Date" shown above, the Town will take action to correct the violation. If this becomes necessary you will be responsible for the payment of all abatement costs incurred by the Town. Failure to pay the "Amount Due" and any abatement costs assessed shall give rise to a lien on the property pursuant to Title 25, Chapter 29, of the Delaware Code. You must pay this civil penalty of \$50.00 by the "Due No Later Than" of this citation, even if the violation has been corrected.

Please return this section with your payment.

DUE NO LATER THAN	PARCEL NUMBER	CITATION NUMBER	AMOUNT DUE
(30 days from Violation Date)	19-00400-693	V3-00005	\$ 50.00

Mail Your Payment To:

The Town of Elsmere  
Finance Department  
11 Poplar Avenue  
Elsmere, DE 19805

- Each 24-hour period that the condition giving rise to this citation continues is subject to a separate citation and an additional civil penalty.
- You have the right to appeal this violation by submitting a written application to the Town of Elsmere's Board of Adjustment within twenty (20) days of the date of this violation. **MEANS OF APPEAL ARE SHOWN ON THE BACK OF THIS FORM.**

## TOWN OF ELSMER

11 POPLAR AVE  
ELSMERE, DE 19805  
ATTN: CRAIG HANNA  
TEL: (302)998-2215  
FAX: (302)998-9920

EXT: 104



INVOICE NO.

I3-00064

INVOICE DATE: 07/07/12

DUE DATE: 08/06/12

CUSTOMER #: C-000009

LENGYEL JOHN & LAURA  
806 KIRKWOOD HWY  
WILMINGTON, DE 19805

## VIOLATION INFORMATION

VIOLATION ID: V3-00005

LOCATION: 806 KIRKWOOD HY

QUANTITY/UNIT	SERVICE ID	DESCRIPTION	UNIT PRICE	AMOUNT
1.00	CODE-CIT	CODE CITATION 806 KIRKWOOD HWY IPMC 2000 302.4 HIGH GRASS/WEEDS	50.0000	50.00
			TOTAL INVOICE	50.00

TOWN OF ELSMERE  
11 POPLAR AVE  
ELSMERE, DE 19805

LENGYEL JOHN & LAURA  
806 KIRKWOOD HWY  
WILMINGTON, DE 19805

Invoice Id: I3-00064

Customer Id: C-000009

Due Date: 08/06/12

Total Due: 50.00





EXHIBIT  
tabbles®  
12-26 D







# The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805

Phone (302) 998-2215 Fax (302) 998-9920

EXHIBIT

tabbies

12-26 E

August 16, 2012

John Lengyel  
1021 White Birch Drive  
Newark, DE 19713

Mayor

Deborah A. Norkavage

1<sup>st</sup> District Councilman  
President Pro-Tempore

John Jaremchuk Jr.

2<sup>nd</sup> District Councilman

Steven Burg

3<sup>rd</sup> District Councilman

Robert Kacperski

4<sup>th</sup> District Councilman

Charles McKewen

5<sup>th</sup> District Councilwoman  
Secretary of Council

Joann I. Personti

6<sup>th</sup> District Councilman

Richard Moore

Town Treasurer

Paul Chalfant

City Solicitor

Edward McNally

Dear Resident or Property Owner,

This letter is to advise you of the date and time of your Appeal Hearing.

The Board of Adjustment of The Town of Elsmere will hold a public meeting to discuss your appeal on Tuesday, August 28, 2012 at 6:30pm at Elsmere Town Hall, located at 11 Poplar Avenue, Elsmere.

**Petition #12-26**  
**Tax Parcel I.D. #1900-400-693**  
**806 Kirkwood Hwy**  
**Zoning: CC**

**John Lengyel**

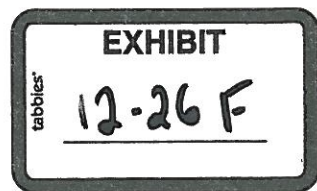
Applicant seeks to appeal Citation Numbers V3-00005. The Board of Adjustment will review and make a decision regarding this petition.

**COPY**

**MAILED**  
8/16/12

Questions concerning this petition, the Board of Adjustment, the Planning Commission, or the Zoning Code should be directed to the Town of Elsmere Code Enforcement Office at (302) 998-2215.

**A Council – Manager Municipality**  
**Located on the Net at [elsmere.delaware.gov](http://elsmere.delaware.gov)**



**BOARD OF ADJUSTMENTS**  
**RULES OF PROCEDURES**  
**NUMBER 1**

**Rules Of Procedures For Appeal Hearings**

Approved By:       The Board Of Adjustments

Approved Date:     The January 29, 2008 Board Meeting

**PURPOSE:**

To establish a clearly defined set of Rules and Procedures that will be followed when an Appeal Hearing is to be heard before the Board of Adjustments.

**COPY**

**MAILED**  
7/27/12



## **BOARD OF ADJUSTMENTS**

### **RULES OF PROCEDURES**

#### **NUMBER 1**

##### **Rules Of Procedures For Appeal Hearings**

#### **I. Nature of Proceeding**

##### **Rule 1. Scope and purpose of Rules.**

These Rules shall govern the procedure for Appeals Hearings before the Board of Adjustments of the Town of Elsmere.

##### **Rule 2. Guidelines for Conduct During Hearing**

The Board of Adjustments has the authority to establish any and all guidelines for conducting the hearing, including establishing time constraints, maintaining order during the hearing, and limiting the number of witnesses to testify.

#### **II. Evidence and Witnesses**

##### **Rule 3. Presentation of Evidence at Hearing**

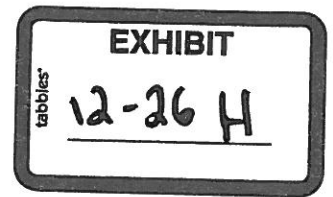
Except as limited by Rules 4-7, any party to an appeal may present both testimonial and documentary evidence.

##### **Rule 4. Exchange of Evidence Copies of all exhibits, except exhibits intended solely for impeachment, must be served on any other party or parties at least five days prior to the hearing. If a party fails to serve the exhibits within five days prior to the appeal, the Board of Adjustments may, at its discretion, refuse to accept that evidence unless good cause is shown as to why the exhibits were not served on the other parties.**

##### **Rule 5. Witness Lists**

At least five days prior to the hearing, each party must identify in writing the witnesses it intends to call at the hearing. If a party fails to identify its witnesses within five days prior to the appeal, the Board of Adjustments may, at its discretion, refuse to hear testimony from those witnesses unless good cause is shown as to why the exhibits were not served on the other parties.





**Rule 6. Oath or Affirmation**

Unless waived by all parties, witnesses' testimony is to be under oath or affirmation.

**Rule 7. Rules of Evidence**

Generally, the Delaware Rules of Evidence shall be used as a guide to the admissibility of evidence at the hearing. However, the Board of Adjustments may accept any evidence it deems to be reliable.

**III. Hearing**

**Rule 8. Transcript of Hearing**

A party at its expense may, on ten days prior written notice to the Board of Adjustment and any other parties, have a transcript made of the hearing.

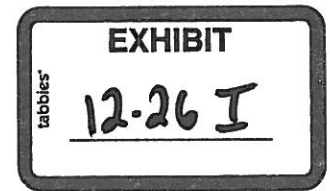
**Rule 9. Opening Statements and Closing Arguments**

The parties are permitted to make an opening statement and closing argument.

**Rule 10. Format of Hearing**

The hearing will proceed as follows:

- 1) Any preliminary matters that must be addressed prior to the Board of Adjustments hearing the evidence;
- 2) Opening Statements;
- 3) Witnesses for the Appellant;
- 4) Witnesses for the Appellee;
- 5) Rebuttal Evidence by the Appellant;
- 6) Closing Arguments;
- 7) Ruling by the Board.



IV. Ruling by the Board

**Rule 11. Decision by Board**

Following the hearing of evidence, the Board of Adjustments will vote and each member shall state the reasons for the member's vote. The Board of Adjustments shall affirm, modify, or reverse the decision of the code official only by a majority vote of the members of the Board present.

**Rule 12. Adjournment of Hearing to Consider Evidence**

The Board of Adjustment may adjourn the hearing for up to ten days to consider the evidence before making a decision.

Adopted by the Board of Adjustments at their January 29, 2008 public meeting.

---

James Personti, Secretary

---

Paul Chalfant, Chairman



# The Town of Elsmere

11 Poplar Avenue, Elsmere, Delaware 19805

Phone (302) 998-2215 Fax (302) 998-9920

EXHIBIT

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12-263

## Witness List

Mayor

Deborah A. Norkavage

1<sup>st</sup> District Councilman

John Jarenczuk Jr.

2<sup>nd</sup> District Councilman

Steven Burg

3<sup>rd</sup> District Councilman

Robert Kaeperski

4<sup>th</sup> District Councilman

Charles McKewen

5<sup>th</sup> District Councilwoman  
Secretary of Council

Joann I. Personti

6<sup>th</sup> District Councilman

Richard Moore

Town Treasurer

Paul Chalfant

City Solicitor

Edward McNally

The following is a potential list of witnesses that may be called to testify during your appeal hearing.

1. Code Officer Dan Reed

2. Code Officer Brian Swift

3. Town Manager John Giles

4. \_\_\_\_\_

5. \_\_\_\_\_

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**MAILED**  
7/27/12